

Exhibit 23

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK

3 NIKE, INC.)
4)
5 vs.) CASE NO. 1:22-cv-00983-VEC
6)
7 STOCKX, LLC)
8
9
10

11 ORAL VIDEOTAPED DEPOSITION

12 DEJONGH WELLS

13 August 30, 2023

14 ORAL VIDEOTAPED DEPOSITION OF DEJONGH WELLS,
15 produced as a witness at the instance of the
16 Plaintiff and duly sworn, was taken in the
17 above-styled and numbered cause on the 30th day of
18 August, 2023, from 9:43 a.m. to 3:03 p.m., before
19 Shauna Foreman, Certified Shorthand Reporter in and
20 for the State of Texas, reported by computerized
21 stenotype machine at the offices of DLA Piper, 845
22 Texas Avenue, Suite 3800, Houston, Texas, pursuant to
23 the Federal Rules of Civil Procedure and the
24 provisions stated on the record or attached hereto.

<p>1 APPEARANCES 2 3 FOR PLAINTIFF: 4 MICHAEL FLUHR, ESQ. GABRIELLE VELKES, ESQ. 5 DLA PIPER 555 Mission Street 6 Suite 2400 San Francisco, California 94105 7 FOR DEFENDANT: 8 MEGAN K. BANNIGAN, ESQ. 9 KATHYRN C. SABA, ESQ. DEVEBOISE PLIMPTON 10 66 Hudson Boulevard New York, New York 10001 11 E-mail: mbannigan@debevoise.com 12 ALSO PRESENT: 13 Cynthia Joseph, Videographer Kim Van Voorhis 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 2</p> <p>1 THE VIDEOGRAPHER: Good morning. 2 We're on the record at 9:43 a.m. Today is August the 3 30th, 2023. 4 This is the video-recorded deposition 5 of Dee Wells taken in the matter of Nike, Inc. versus 6 StockX, LLC. The case number is 22-cv-00983. This 7 location of the deposition is 845 Texas Avenue, 8 Houston, Texas 77002. My name is Cynthia Joseph, 9 representing Veritext. We also have Shauna Foreman, 10 representing Veritext.</p> <p>11 DEJONGH WELLS, 12 having been first duly sworn, testified as follows:</p> <p>13 EXAMINATION</p> <p>14 THE VIDEOGRAPHER: Will counsel please 15 state their appearances and affiliations for the 16 record?</p> <p>17 MR. FLUHR: Yes. Michael Fluhr on 18 behalf of plaintiff Nike, from DLA Piper.</p> <p>19 MS. VELKES: Gabrielle Velkes on 20 behalf of Nike from DLA Piper.</p> <p>21 MS. BANNIGAN: Good morning. Megan 22 Bannigan from Debevoise & Plimpton on behalf of 23 StockX, and with me is my colleague from Debevoise & 24 Plimpton, Kate Saba.</p> <p>25 Q. (BY MR. FLUHR) All right. Good morning,</p>
<p>1 INDEX 2 PAGE 3 DEJONGH WELLS 4 Examination by Mr. Fluhr4 Examination by Ms. Bannigan128 5 Further Examination by Mr. Fluhr133 6 7 EXHIBITS 8 9 NO. DESCRIPTION PAGE 10 Exhibit 1 Notice of Deposition 7 Exhibit 2 Expert Report 15 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 3</p> <p>1 Mr. Wells. 2 A. Good morning. 3 Q. How are you doing today? 4 A. I'm doing well. 5 Q. Have you ever been deposed before? 6 A. No, I have not been deposed before. My 7 first time. 8 Q. Welcome. 9 A. Thank you. 10 Q. So I'm sure your attorney went over this 11 with you and we'll talk about what preparation you 12 did for the deposition, but I just want to go over a 13 few very basic rules. 14 This is a deposition. I'll be asking 15 you questions, and you'll be answering them under the 16 oath that you just took. 17 Do you understand that? 18 A. I do understand that. 19 Q. The court reporter will be recording 20 everything that we say. I would ask that you allow 21 me to finish my question before you begin your 22 answer. 23 Can we agree to that? 24 A. Yes, we can. 25 Q. All right. If you don't understand my</p>

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<p>1 perception?</p> <p>2 A. I have taken classes in consumer</p> <p>3 perception.</p> <p>4 Q. Tell me about those.</p> <p>5 A. Courses particularly during college in</p> <p>6 pursuing my -- my degree in business administration,</p> <p>7 marketing classes looking at all different -- you</p> <p>8 know, marketing strategies and what motivates</p> <p>9 consumers. Absolutely.</p> <p>10 Q. Have you ever written any articles about</p> <p>11 consumer perception as you're talking about it here?</p> <p>12 A. I have written articles about consumer</p> <p>13 perception. I wrote articles during the publication</p> <p>14 of Sole Collector Magazine. I've written blog posts.</p> <p>15 I've written and published articles on LinkedIn,</p> <p>16 Twitter, Instagram, using social media to its</p> <p>17 fullest, yes.</p> <p>18 Q. Have you ever designed a customer survey?</p> <p>19 A. I haven't designed a customer survey.</p> <p>20 Because I do so much research and I am on a lot of</p> <p>21 these message boards and websites, I don't have to do</p> <p>22 a survey, but I am gathering information based upon</p> <p>23 what I -- I read, hear, see, and even conversations</p> <p>24 that people seek me out to have, as well.</p> <p>25 Q. Have you ever been part of the design of a</p>	<p>Page 54</p> <p>1 A. No.</p> <p>2 Q. What about NFTs?</p> <p>3 A. What's the question?</p> <p>4 Q. Have you ever owned an NFT?</p> <p>5 A. I have not owned an NFT.</p> <p>6 Q. Do you know what NFTs are?</p> <p>7 A. No, I don't.</p> <p>8 Q. Okay. I would like you to turn to Section</p> <p>9 C of your report. It's on Pages 3 and 4. There's a</p> <p>10 section called Assignment.</p> <p>11 Do you see that?</p> <p>12 A. I do see that.</p> <p>13 Q. Does this accurately and completely reflect</p> <p>14 what your understanding of your assignment is in this</p> <p>15 case?</p> <p>16 A. This is a -- just at a -- yes, this is the</p> <p>17 assignment that I was asked to write my report based</p> <p>18 upon.</p> <p>19 Q. And have you completed your assignment in</p> <p>20 this case?</p> <p>21 A. Yes, I have.</p> <p>22 Q. Is there any further work for you to do in</p> <p>23 this case for that assignment?</p> <p>24 A. No, there isn't. My report is just that.</p> <p>25 Q. I would like you to turn to Pages 4 through</p>
<p>Page 55</p> <p>1 customer survey, like consulted on the design of a</p> <p>2 customer survey?</p> <p>3 A. I have consulted on the design of a</p> <p>4 customer survey.</p> <p>5 Q. Tell me about that.</p> <p>6 A. When I was brought in to help Converse</p> <p>7 revive their basketball division, they wanted to do</p> <p>8 just that, get a better understanding of who their</p> <p>9 consumers are, how to connect with them, how to find</p> <p>10 out what it is that they are looking for in products</p> <p>11 specific to basketball. Converse produced the</p> <p>12 survey, but I did have input in that survey.</p> <p>13 Q. And by the way, I'm sure your attorneys</p> <p>14 have explained this. This is all me just figuring</p> <p>15 out what you're an expert in, what the bounds of that</p> <p>16 are, what you're not an expert in.</p> <p>17 Let's shift gears on that subject. Do</p> <p>18 you know what a blockchain is?</p> <p>19 A. I do not know what a blockchain is.</p> <p>20 Q. That makes that part of it easy.</p> <p>21 Do you own any cryptocurrency?</p> <p>22 A. I do not own any cryptocurrency.</p> <p>23 Q. Have you ever owned any cryptocurrency?</p> <p>24 A. No, I have not.</p> <p>25 Q. Do you know what cryptocurrency is?</p>	<p>Page 55</p> <p>1 6. There's the next section, Section D, called</p> <p>2 Summary of Opinions.</p> <p>3 A. I'm there.</p> <p>4 Q. I'm going to ask you pretty much the same</p> <p>5 questions.</p> <p>6 Is this a full and accurate summary of</p> <p>7 the opinions you intend to offer in this case?</p> <p>8 A. Summary of Opinions, 4 through 6, this is a</p> <p>9 snapshot of what my full report is, but you have to</p> <p>10 take it with its totality.</p> <p>11 Q. Are there any opinions you intend to offer</p> <p>12 in this case that are not contained in your report?</p> <p>13 A. No, there are not.</p> <p>14 Q. That part's easy. I would like you to turn</p> <p>15 to Page 50.</p> <p>16 A. I'm there.</p> <p>17 Q. Okay. In Paragraph 111, you say, "Each</p> <p>18 Vault NFT is linked to a specific pair of sneakers."</p> <p>19 What, in your understanding, are Vault</p> <p>20 NFTs?</p> <p>21 A. Give me one second. I'm trying to find</p> <p>22 where that sentence is. In 111, and it begins</p> <p>23 with --</p> <p>24 Q. "Each Vault NFT." So it's --</p> <p>25 A. Okay.</p>

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<p style="text-align: right;">Page 58</p> <p>1 Q. About halfway down, right after the 2 Footnote 182. Okay?</p> <p>3 A. Okay. Can you ask the question again?</p> <p>4 Q. Absolutely. What's a Vault NFT?</p> <p>5 A. A Vault NFT is -- just as I state in my 6 report, is tied to an actual physical pair of 7 sneakers that are in a storage facility that StockX 8 controls.</p> <p>9 Q. I think you wrote "is linked to." What do 10 you mean by "linked to"?</p> <p>11 A. "Linked" being specific to there will be 12 multiple pairs of sneakers so someone will be able to 13 keep track of. So, thus, they can access it maybe on 14 their desktop computer, their smartphone. So that's 15 the link, the storage of that data.</p> <p>16 Q. When you say, "Each Vault NFT is linked to 17 a specific pair of sneakers which is stored in 18 StockX's secure Vault and depicted on the images 19 associated with the NFT," do you have any 20 understanding of what a Vault NFT is beyond that 21 description?</p> <p>22 A. Other than it means clearly stated what it 23 is there. And then specifically going to Number 183, 24 the footnote is "Tied to a physical product as 25 depicted in the NFT which is stored in our brand-new</p>	<p style="text-align: right;">Page 60</p> <p>1 look at Paragraph 12A, you say, "A sneakerhead is a 2 person who has a deep passion for buying, collecting, 3 trading, and/or learning about sneakers."</p> <p>4 Is that your definition of what a 5 sneakerhead is?</p> <p>6 A. That is my definition of a sneakerhead.</p> <p>7 Q. I'm going to guess you did not invent this 8 term.</p> <p>9 A. What's the question?</p> <p>10 Q. I'm going to guess you did not invent the 11 term "sneakerhead"; is that correct?</p> <p>12 A. That is correct. I did not.</p> <p>13 Q. Do you have any understanding as to the 14 origin of that term?</p> <p>15 A. I don't know where that came from, no.</p> <p>16 Q. A lot of these questions, by the way, I'm 17 not sure I expect you to know certain things, but I'm 18 going to ask anyway.</p> <p>19 Do you know when you first heard this 20 term?</p> <p>21 A. Is the question when the first time I heard 22 the term --</p> <p>23 Q. Sneakerhead.</p> <p>24 A. The first time I heard "sneakerhead"? I 25 don't recall exactly when. It's been a term that's</p>
<p style="text-align: right;">Page 59</p> <p>1 climate-controlled security vault. That's my 2 understanding."</p> <p>3 Q. Do you have any understanding as to whether 4 or which blockchain the NFTs are stored on?</p> <p>5 A. No, I don't. I have no idea.</p> <p>6 Q. Okay. Do you have any understanding as to 7 whether ownership of a Vault NFT would give the 8 holder access to a discord?</p> <p>9 A. No, I don't know what that -- what that is 10 or what that would connect to.</p> <p>11 Q. Do you have any understanding as to whether 12 a Vault NFT is associated with a picture of shoes or 13 other piece of media?</p> <p>14 A. I understand that a Vault NFT is tied to an 15 image, a picture. Beyond that, no.</p> <p>16 Q. Do you understand whether a Vault NFT 17 entitles the holder to certain other benefits of any 18 kind?</p> <p>19 A. Benefits such as? Where -- can you expand 20 that?</p> <p>21 Q. Of any kind beyond a link to the shoe that 22 you mentioned.</p> <p>23 A. I don't know if there are any additional 24 benefits.</p> <p>25 Q. Let's go to Page 4 of your report. If you</p>	<p style="text-align: right;">Page 61</p> <p>1 been thrown around for a very long time. I don't.</p> <p>2 Q. I assume this is a term you've heard many 3 times throughout your life?</p> <p>4 A. I have. I've heard, you know, the term 5 "sneakerhead" in everything from music, particularly 6 hip hop, and then certainly on the various message 7 boards, websites that I -- messages that I frequent.</p> <p>8 Q. Where did you get this particular 9 definition of the term?</p> <p>10 A. This is my definition of -- of a 11 sneakerhead as I defined it.</p> <p>12 Q. Is that your understanding of how the term 13 is commonly used?</p> <p>14 A. Yes, it is.</p> <p>15 Q. Is there a standard definition of that 16 term, like in a sneaker textbook?</p> <p>17 A. Not that I know of.</p> <p>18 Q. Are there other possible definitions of 19 that term?</p> <p>20 A. Absolutely. It's really up to the person 21 how they want to define a sneakerhead and what is a 22 sneakerhead or not.</p> <p>23 Q. I'm dying to know whether you think I'm a 24 sneakerhead, but we'll get there in a bit.</p> <p>25 The definition you've given is a</p>

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<p style="text-align: right;">Page 62</p> <p>1 person who has a deep passion for buying, collecting, 2 trading, and/or learning about sneakers. 3 Am I correct by the use of the 4 "and/or" that a person doesn't necessarily have to 5 buy, collect, trade, and learn to be a sneakerhead? 6 In some cases, one of those could be sufficient? 7 A. Can you repeat the question? 8 Q. Does a person have to buy, collect, trade, 9 and learn about sneakers to be a sneakerhead? 10 A. Based upon my definition, yes. 11 Q. Well, let me see if I can clarify. 12 What if a person has a deep passion 13 for buying and collecting sneakers but not trading or 14 learning about sneakers? 15 A. Right. 16 Q. Could they still be a sneakerhead? 17 A. It's all -- it all depends in the context 18 of the person. Because sneakerheads are very 19 complex, they may do one, two, three, all, or just 20 one particular area. 21 Q. I'm going to give you a hypothetical 22 person, and you tell me whether you think this person 23 is a sneakerhead. 24 This person owns a hundred pair of 25 sneakers, keeps 50 in cases on display at their home,</p>	<p style="text-align: right;">Page 64</p> <p>1 collect, what are some reasons that a sneakerhead 2 might give you as to why they collect, and then I'll 3 ask you what are some reasons that a non-sneakerhead 4 might give you? But let's start with the first. 5 What are some of the reasons that a 6 sneakerhead would give you to collect those sneakers? 7 A. A sneakerhead would say they do it for the 8 love of the game, and the game being the sneaker 9 community, being part of this culture that exists to 10 connect with other sneakerheads as a way to build 11 that community, that network to buy, sell, trade, 12 learn sneakers across international lines even, as we 13 do. We do that readily, and it's become easier now. 14 So I'm not trying to be coy, but 15 there's so many layers to why someone may collect 16 sneakers, just like there's a reason why someone may 17 only trade sneakers. 18 Q. What if the reason were that person only 19 buys and sells sneakers to make a profit? They don't 20 care about the culture. They don't care about 21 wearing them. They just buy and sell sneakers to 22 make a profit. 23 Would you consider that person a 24 sneakerhead? 25 MS. BANNIGAN: Objection.</p>
<p style="text-align: right;">Page 63</p> <p>1 and wears the other 50 on rotation. 2 Would you consider that person a 3 sneakerhead? 4 MS. BANNIGAN: Objection. 5 A. I would need to know more about this person 6 because in the context of -- of that hypothetical 7 scenario, there's so much more that is missing for me 8 to come up with a -- you know, an answer. 9 Q. (BY MR. FLUHR) What else would you need to 10 know? 11 A. Why do they have 50 sneakers sitting in 12 cases? Why do they -- why do they split -- you know, 13 there's a bunch of question marks that I would ask 14 throughout that person if I were sitting with him or 15 her. Why do you do what you do? Why do you buy what 16 you buy? 17 So there's -- I can't cast a wide net 18 like that and say, yeah, that person is a sneakerhead 19 or, no, that person is not. It is a complex term, 20 and there's multiple layers to that, as well. 21 Q. And I don't necessarily disagree with you. 22 I know this is a strange discussion to have. This is 23 just the discussion that lawyers have and we have in 24 a deposition. 25 Going back to that question why you</p>	<p style="text-align: right;">Page 65</p> <p>1 A. Again, that's -- that's a very -- it's 2 complex. My definition of a sneakerhead, again, may 3 be very different than the person sitting to my 4 right. We can sit here until we're blue in the face 5 and argue about it, but my opinions are my opinions 6 about a sneakerhead. In terms of my definition, this 7 is what I -- I believe. 8 Q. (BY MR. FLUHR) I feel like I'm going to 9 put a little pressure on you here, but am I a 10 sneakerhead? What information do you need from me to 11 make that determination? 12 MS. BANNIGAN: Objection. 13 A. We would need to talk. I would want to -- 14 I wouldn't call it interview you, per se, but ask 15 questions of what's your connection to sneakers? Why 16 do you wear the sneakers you wear, buy the sneakers 17 you buy? 18 Again, it's -- there are many layers. 19 Again, we could sit here all day and talk about that, 20 or I could ask a lot of questions. 21 Q. (BY MR. FLUHR) Well, let's talk about it 22 for just a little. I own probably 10 different pairs 23 of sneakers. I wear them and select them for a 24 combination of function, esthetics and also what they 25 say about me.</p>

<p style="text-align: right;">Page 66</p> <p>1 Is that enough, or would you need to 2 know more information to determine whether I'm a 3 sneakerhead?</p> <p>4 A. I would need to know more from you about -- 5 again, the back-story about you and your connection 6 to those sneakers, what motivated you to buy those 7 particular sneakers. Just that in itself would give 8 me just a glimpse of who you are and what you're 9 about because as human beings, we're complex 10 individuals. We know that. So I would have to ask a 11 lot more questions of you.</p> <p>12 Q. You've mentioned before that some people 13 might consider themselves sneakerheads, and you might 14 disagree; is that right?</p> <p>15 A. I would say, yeah, some people would call 16 themself a sneakerhead. I may say they are not. We 17 will have a difference of opinion.</p> <p>18 Q. Okay. Can someone be more of a sneakerhead 19 than someone else? I mean, it would strike me that 20 you are like the ultimate sneakerhead, but maybe you 21 disagree.</p> <p>22 Is it a binary categorization, or is 23 there more of a spectrum?</p> <p>24 A. It's a spectrum. I mean, when I define 25 what a sneakerhead is and I talk about a person who</p>	<p style="text-align: right;">Page 68</p> <p>1 to steal a page out of the brand Fugu, but it was 2 designed for sneakerheads.</p> <p>3 Q. In these conversations -- let me back up 4 for a second.</p> <p>5 It sounds like of these conversations 6 you're having on-line and in person, you perceive 7 that many of the people you're talking to would be 8 considered sneakerheads under your definition; is 9 that right?</p> <p>10 MS. BANNIGAN: Objection.</p> <p>11 A. Repeat the question one more time just to 12 make sure I'm getting it clear.</p> <p>13 Q. (BY MR. FLUHR) In these discussions that 14 you're having on-line and in person, are all of the 15 people you're talking to sneakerheads under your 16 definition?</p> <p>17 A. No. I'm talking to sneakerheads as well as 18 general consumers because having been in this space 19 of sneaker culture for so long but also being sought 20 out by Nike, Converse, Adidas, New Balance, I'm also 21 speaking about consumers because they know or trust 22 me that I'm in the know of what consumers are looking 23 for and what they need.</p> <p>24 Q. And I don't doubt any of that. Of the 25 people you're talking to on-line, what percentage of</p>
<p style="text-align: right;">Page 67</p> <p>1 has a deep passion for buying, collecting, trading 2 and/or learning about sneakers, the very next 3 sentence, "Individuals of all races -- all ages, 4 races, nationalities can be sneakerheads." 5 So it's -- it's vast and wide. 6 Sneaker culture crosses all boundaries. It is. It's 7 hard to put a target on it and say this person is, 8 this person is not. 9 Q. Are you offering an opinion in this case as 10 to what percentage of StockX customers are 11 sneakerheads under your definition? 12 A. I am offering an opinion on that as StockX 13 is geared for -- made for sneakerheads. It's almost, 14 like, designed for us by us. 15 Q. I think one reason I ask is because I 16 wasn't sure I really saw that in your report. 17 What percentage of StockX customers 18 are sneakerheads under your definition? 19 A. I can't give you an exact percentage. I 20 will say that based upon a lot of the people that I 21 talk to, interact with on Facebook, sneaker groups, 22 LinkedIn, Twitter, Instagram, TikTok, Snapchat, even 23 being part of this community in sneaker meet-ups -- 24 Sneaker Con, H Town Sneaker Summit -- StockX is the 25 unofficial Kelly Blue Book of sneakers. Again, not</p>	<p style="text-align: right;">Page 69</p> <p>1 them are sneakerheads? 2 A. A lot of them are sneakerheads. 3 Q. How do you know they are sneakerheads? 4 A. By the questions they ask. I mean, they 5 are asking -- a lot of times people are coming kind 6 of call it to my front door through all of these 7 different outlets -- again, LinkedIn, Facebook 8 groups, Twitter, Instagram -- and asking questions of 9 me related to sneakers, my thoughts and opinions on 10 sneakers, my thoughts and opinions on sneaker 11 culture. 12 Q. You mentioned -- and I think I understand 13 that in the sneakerhead community StockX is popular; 14 is that correct? 15 A. StockX is very popular in the sneakerhead 16 community. 17 Q. In the sneakerhead community, what 18 percentage of sales and purchases are made on StockX 19 versus other secondary marketplaces? 20 A. Repeat the question one more time. 21 Q. In the sneakerhead community, what 22 percentage of -- what percentage of purchases and 23 sales are made on StockX versus another secondary 24 marketplace? 25 A. I don't know that. That would be</p>

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<p>1 information you would have to get from StockX.</p> <p>2 Q. And then I want to ask kind of a different</p> <p>3 question, which is the question that I asked before.</p> <p>4 Of all the purchasers on StockX,</p> <p>5 which -- what percentage are sneakerheads, what</p> <p>6 percentage are not sneakerheads?</p> <p>7 A. I don't know the exact percentage. I would</p> <p>8 say the majority of the people that are going to</p> <p>9 StockX are sneakerheads, though, because they know</p> <p>10 that StockX is a reliable source. It's a great place</p> <p>11 to do their own kind of research, look at the</p> <p>12 marketplace of what sneakers are popular, what they</p> <p>13 are selling for. It's a highly-regarded website.</p> <p>14 You know, it's a place where people trust them.</p> <p>15 Q. Could it be a highly-regarded website for</p> <p>16 non-sneakerheads, as well?</p> <p>17 A. Absolutely, because it's speaking to both</p> <p>18 sneakerheads as well as general consumers.</p> <p>19 Q. Do you have any sense about how many</p> <p>20 sneakerheads there are in the United States? I know</p> <p>21 this sounds like a strange question.</p> <p>22 A. No idea how many.</p> <p>23 Q. Okay. I guess what I'm wondering is how</p> <p>24 you know that the majority of customers on StockX are</p> <p>25 sneakerheads versus a whole bunch of other consumers</p>	<p>Page 70</p> <p>1 Have you ever seen any documents from</p> <p>2 StockX about their customer demographics?</p> <p>3 A. No, I have not. I have not seen any of</p> <p>4 that information.</p> <p>5 Q. Do you know the average number of shoes</p> <p>6 owned by a StockX customer?</p> <p>7 A. No, I do not.</p> <p>8 Q. Do you know the average number of purchases</p> <p>9 made on StockX by a StockX customer?</p> <p>10 A. No, I don't.</p> <p>11 Q. Do you know any information or data about</p> <p>12 the numbers of shoes purchased or sold by -- by</p> <p>13 StockX customers?</p> <p>14 A. No, I don't. That's all up to them.</p> <p>15 Q. As any part of your research, have you --</p> <p>16 or work in this case, have you conducted a consumer</p> <p>17 survey?</p> <p>18 A. I haven't conducted any consumer surveys</p> <p>19 for this case. I know a lot of information about the</p> <p>20 sneakerhead community and the culture, so I didn't</p> <p>21 need to do any. No.</p> <p>22 Q. In terms of determining whether somebody is</p> <p>23 a sneakerhead, you had mentioned the reasons that</p> <p>24 somebody collects shoes; is that right?</p> <p>25 MS. BANNIGAN: Objection.</p>
<p>Page 71</p> <p>1 who happen to like StockX.</p> <p>2 A. Sneakerheads, again, know, trust StockX.</p> <p>3 They are used, you know, as the Kelly Blue Book for</p> <p>4 sneakers in terms of understanding where -- where the</p> <p>5 price point is of a sneaker but also the resale</p> <p>6 value. I don't know who else is doing that right now</p> <p>7 or doing it as well as StockX.</p> <p>8 Q. Well, I guess -- if I can push back a</p> <p>9 little bit, it strikes me that what I hear you to be</p> <p>10 saying is that in this sneakerhead community, for</p> <p>11 them, StockX is a go-to or the go-to place. But if</p> <p>12 there's this much larger consumer base of people</p> <p>13 buying sneakers who are not sneakerheads and they</p> <p>14 like might like StockX as well, how do you know that</p> <p>15 the majority of people on StockX are sneakerheads?</p> <p>16 MS. BANNIGAN: Objection.</p> <p>17 A. I don't know specific numbers, but I know</p> <p>18 the intended purpose when StockX was created and</p> <p>19 formed. Again, they were designed for and with</p> <p>20 sneakerheads in mind, even going back as far as when</p> <p>21 before it became StockX, it was Campless.</p> <p>22 Q. (BY MR. FLUHR) I think she is --</p> <p>23 A. C-A-M-P-L-E-S-S.</p> <p>24 Q. Have you seen -- I didn't see any cited in</p> <p>25 your reports.</p>	<p>Page 73</p> <p>1 A. Ask the question one more time.</p> <p>2 Q. (BY MR. FLUHR) Yeah. In terms of</p> <p>3 determining whether someone's a sneakerhead, you had</p> <p>4 testified that one piece of information you would</p> <p>5 want to know is the reason that they collect shoes;</p> <p>6 is that right?</p> <p>7 A. It's more than just -- to understand a</p> <p>8 sneakerhead is more than just to understand the</p> <p>9 reason. Again, it's really complex. It's like</p> <p>10 there's different layers to it. Just as we as human</p> <p>11 beings are complex individuals, consumers and</p> <p>12 specifically sneakerheads are just that. They are</p> <p>13 very complex. So I can't go on just one particular</p> <p>14 kind of point.</p> <p>15 Q. And to be clear, I wasn't suggesting that</p> <p>16 that was the only data point that you would want to</p> <p>17 know. I was just asking to confirm whether that is a</p> <p>18 data point that would inform your -- your decision.</p> <p>19 A. That's one of the points that I would want</p> <p>20 to know. It's also one of the things that would come</p> <p>21 up in conversation, I'm sure.</p> <p>22 Q. What are the other things you would want to</p> <p>23 know? If you could just give me a list of three to</p> <p>24 five.</p> <p>25 A. Can you go back and restate the first part</p>

<p style="text-align: right;">Page 74</p> <p>1 of the question? Because this is multi-layered here.</p> <p>2 Q. If you wanted to make a determination</p> <p>3 whether somebody's a sneakerhead under your</p> <p>4 definition, what are some other things you would want</p> <p>5 to know about that person? You don't have to give me</p> <p>6 an exhaustive list, but three to five examples.</p> <p>7 A. When I -- when I go back to how I define a</p> <p>8 sneakerhead -- again, it's -- it's a person that has</p> <p>9 a deep passion for buying, collecting, trading,</p> <p>10 and/or learning about sneakers. There's so much</p> <p>11 there about the human being who I'm talking about</p> <p>12 that I would want to -- to know about -- about them.</p> <p>13 Where do they live? What's their shoe size? Again,</p> <p>14 we can go on and on and on and on. There's a ton of</p> <p>15 questions. The intended purpose of the sneakers that</p> <p>16 they are buying. Do they have any history of health</p> <p>17 issues with their feet or health issues in general?</p> <p>18 Just to name a few.</p> <p>19 Q. What about the number of shoes that they</p> <p>20 own? Is that just one data point that might inform</p> <p>21 your opinion about whether they are a sneakerhead?</p> <p>22 Not the only data point, just --</p> <p>23 A. It's not the only data point. But again,</p> <p>24 it goes back to someone may fall into only just one</p> <p>25 of these categories. But I can't cast that net so</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Do you have any information about StockX</p> <p>2 customer distribution of shoe sizes?</p> <p>3 A. I don't have that data, no. It wasn't</p> <p>4 given to me or shared with me.</p> <p>5 Q. This is maybe the strangest question, but</p> <p>6 do you have any information about health issues</p> <p>7 experienced by StockX customers?</p> <p>8 A. No, I do not.</p> <p>9 Q. Okay. Let's switch gears.</p> <p>10 MS. BANNIGAN: We've been going about</p> <p>11 an hour. I think exactly an hour. Did you want to</p> <p>12 take a quick break? Did you want to have lunch?</p> <p>13 MR. FLUHR: We certainly can take a</p> <p>14 quick break. Let's go off the record.</p> <p>15 THE VIDEOGRAPHER: We're going off the</p> <p>16 record. The time is 11:53.</p> <p>17 (Recess from 11:53 a.m. to 12:51 p.m.)</p> <p>18 THE VIDEOGRAPHER: We are back on the</p> <p>19 record. The time is 12:51.</p> <p>20 Q. (BY MR. FLUHR) Okay. Can you turn to Page</p> <p>21 4 of your report?</p> <p>22 A. Okay. I'm there.</p> <p>23 Q. And if you look at Paragraph 12D, you</p> <p>24 wrote, "Scarcity has been an important driver of</p> <p>25 sneakerhead culture. Many sneakerheads own products</p>
<p style="text-align: right;">Page 75</p> <p>1 wide and broad and say, "Oh, yes, you are" and, "No,</p> <p>2 you're not." Some people may -- you know, people</p> <p>3 within the community may have a magical number.</p> <p>4 Again, that's a matter of opinion.</p> <p>5 Q. And again, I'm not asking you to categorize</p> <p>6 a person based on just this data point or just based</p> <p>7 on a single number, but is that a data point that</p> <p>8 might inform your decision or opinion?</p> <p>9 A. It would certainly help.</p> <p>10 Q. What about -- I think this is the last one,</p> <p>11 but what about the amount of time this person spends</p> <p>12 on-line per week researching or discussing sneakers?</p> <p>13 Is that not the only or even a</p> <p>14 dispositive data point but just one data point that</p> <p>15 you would look at to determine whether that person is</p> <p>16 a sneakerhead?</p> <p>17 A. I would want to know what they -- what they</p> <p>18 have learned or where they go for their information.</p> <p>19 It would serve as a data point. But, again, it's --</p> <p>20 it's -- the sneakerhead community is so diverse</p> <p>21 because of -- and it's so complex just because of</p> <p>22 just human nature as human beings. Yeah.</p> <p>23 Q. Do you have any information about</p> <p>24 geographic data of where StockX customers live?</p> <p>25 A. No, I do not.</p>	<p style="text-align: right;">Page 77</p> <p>1 that are rare and nobody else has."</p> <p>2 Tell me more about that.</p> <p>3 THE WITNESS: Bear with me. I just</p> <p>4 had a piece of gum that's bothering my throat. I</p> <p>5 apologize if I get choked up.</p> <p>6 MS. BANNIGAN: Take a drink.</p> <p>7 THE WITNESS: I don't know how I did</p> <p>8 that. Maybe it's just old gum. Not good, especially</p> <p>9 in a moment like right now.</p> <p>10 A. So 12D, "Scarcity has been an important</p> <p>11 driver of sneakerhead culture and hype. Many</p> <p>12 sneakerheads strive to own products that are rare and</p> <p>13 nobody else has."</p> <p>14 So this goes directly to the</p> <p>15 sneakerhead community wanting to -- it goes into the</p> <p>16 look good/feel good, but the scarcity model really</p> <p>17 ties into just general economics of supply and</p> <p>18 demand.</p> <p>19 Sneakerheads are always looking for,</p> <p>20 hunting for rare sneakers, sneakers that no one else</p> <p>21 has or owns.</p> <p>22 Q. (BY MR. FLUHR) And what is it about the</p> <p>23 rarity that they value?</p> <p>24 A. The rarity is tied directly into the</p> <p>25 stories connected to them, the brand recognition, but</p>

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<p>1 A. Again, specifically here in G, "They are 2 often aware that counterfeit sneakers, including 3 counterfeit Nike sneakers, are common and are 4 generally understood that there is always the risk 5 they will be -- they will get counterfeits when 6 purchasing on the resale market."</p> <p>7 This is a part of the game. And when 8 I use "the game" in that instance, I am talking about 9 sneakerhead culture in the community. There's always 10 the risk that you can end up with a fake, counterfeit 11 product.</p> <p>12 Q. So I understand the risk, and I know you 13 understand the risk and it's in your report.</p> <p>14 Are there some sneakerheads that don't 15 understand that risk?</p> <p>16 A. No. Sneakerheads understand it's always a 17 risk. It's a crapshoot. And I hate to use that 18 term, but there's the risk that exists in the 19 marketplace, in the community, because counterfeit 20 sneakers exist and real sneakers exist.</p> <p>21 Q. Do you think that there is even a single 22 sneakerhead that doesn't understand that risk?</p> <p>23 A. Could that be a possibility? Absolutely. 24 Absolutely. But it would be very hard to find a 25 sneakerhead who is not aware that counterfeits do</p>	<p>Page 86</p> <p>1 thing. There's people on both sides of that 2 argument. So, thus, each sneaker person is 3 different.</p> <p>4 Q. So I certainly agree and think that 5 sneakerheads may differ on whether they think 6 counterfeiting is good or bad, but might they also 7 differ on how common they think it is?</p> <p>8 A. Absolutely. That's up to interpretation by 9 that sneakerhead.</p> <p>10 Q. The opinion that sneakerheads are often 11 aware that counterfeiting is common, what's the basis 12 for that opinion, the evidence underlying that 13 opinion?</p> <p>14 A. I'm going to ask you to repeat the question 15 one more time because my tickle in my throat is 16 really distracting me.</p> <p>17 Q. That's okay. Do you need a few minutes 18 or --</p> <p>19 A. No, I just --</p> <p>20 MS. BANNIGAN: We can go off the 21 record for you to take a few minutes and take a 22 drink.</p> <p>23 THE WITNESS: No, I just literally --</p> <p>24 MS. BANNIGAN: I'm sure Michael would 25 agree to let you have a minute so you're not --</p>
<p>1 exist.</p> <p>2 Q. I can't remember whether we discussed this 3 portion of your opinion. You had -- you have written 4 in your opinion, "Each sneakerhead is different."</p> <p>5 You agree with that?</p> <p>6 A. What section of -- of my report are you 7 referring to in this? I mention that a lot of times 8 throughout my report.</p> <p>9 Q. I can go back, if you want.</p> <p>10 A. Okay.</p> <p>11 Q. Would that be helpful for you?</p> <p>12 A. Yes, please.</p> <p>13 Q. Okay. I'm just going to ask you to confirm 14 that you wrote that and you agree with that. Give me 15 a second, and I'll tell you. If you go to Page 10, 16 Paragraph 27 --</p> <p>17 A. Okay. I'm there.</p> <p>18 Q. You write, "Each sneakerhead is different."</p> <p>19 A. That is correct.</p> <p>20 Q. I was just referencing your comment.</p> <p>21 Do sneakerheads differ in their 22 perception of how common counterfeiting is?</p> <p>23 A. Yes, because the -- the perception of 24 counterfeits, there's people that could deem 25 counterfeits a good thing or deem counterfeits a bad</p>	<p>Page 87</p> <p>1 THE WITNESS: No. It's just -- I've 2 never had this happen before. I sincerely apologize.</p> <p>3 MR. FLUHR: I know the feeling where 4 something has happened and all of a sudden you're 5 coughing for the next hour and it's not fun to talk.</p> <p>6 THE WITNESS: I thought I was using a 7 piece of gum to freshen up my mouth, and lo and 8 behold.</p> <p>9 MR. FLUHR: Let us know if you need to 10 take a break. I completely understand.</p> <p>11 THE WITNESS: No, no. I appreciate 12 it.</p> <p>13 A. If you could just repeat the question one 14 more time for me.</p> <p>15 Q. (BY MR. FLUHR) Your opinion that 16 sneakerheads are generally aware that counterfeits 17 are common, what's your basis for that opinion?</p> <p>18 A. My basis for that opinion is living, 19 breathing this for -- in sneaker culture for two plus 20 decades, the message boards that I'm a part of, 21 LinkedIn, Twitter, Instagram. I talk to a lot of 22 people through these platforms, too. But then also 23 in -- I call it in real life, face-to-face, there's a 24 lot of sneakerheads that are just acutely aware that 25 fake sneakers, counterfeit sneakers do exist. They</p>

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<p style="text-align: right;">Page 90</p> <p>1 are aware of it. Some even will post and share that 2 information freely that I see on Twitter, on 3 Instagram, and elsewhere and say, "Hey, this is just 4 part of the game. Chalk it up. I look an L today, 5 and I got got."</p> <p>6 Q. We'll talk about the consumers who -- or 7 the sneakerheads who intentionally buy counterfeits, 8 but save for those sneakerheads, what's the reaction 9 when a sneakerhead buys a shoe they find to be 10 counterfeit when they got got?</p> <p>11 A. When someone finds out that they end up 12 with a counterfeit pair of sneakers, I'm sure, as I 13 would, go through a range of emotions from my 14 hard-earned money is now gone, I can't wear these for 15 fear of them falling apart, but also my reputation. 16 There's a whole -- I'm sure for all of us there's a 17 myriad of things that go through our mind. I know 18 when I purchased a pair of sneakers that I thought 19 were real and it ended up them being fake, I went 20 through that range of emotions. I was -- I was upset 21 because, again, I work really hard to do my research, 22 spend my hard-earned money on these products. But I 23 turn those products now into examples that I use 24 through the SOLEcial Studies program to teach and to 25 show how much things have changed even within the</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. Are there any other sources of sneakers 2 other than directly from the manufacturer where you 3 would not expect to find some risk of counterfeits?</p> <p>4 A. No.</p> <p>5 Q. I'm going to guess that some secondary 6 sources -- can we refer to them as secondary sources, 7 sources other than the manufacturer?</p> <p>8 A. Secondary sources? Can you clarify a 9 little bit? Like, are you thinking of anyone 10 specifically?</p> <p>11 Q. No, I'm not.</p> <p>12 A. Okay. Just talking secondary sources. Got 13 you.</p> <p>14 Q. And if you have a term you prefer, we can 15 use that term.</p> <p>16 A. That's fine, secondary sources. Yeah.</p> <p>17 Q. In your perception, are some secondary 18 sources more likely to have counterfeits for sale 19 than others?</p> <p>20 A. Yes, there are. There are some -- some 21 sources that do.</p> <p>22 Q. What are some sources that you think are 23 more likely to have counterfeits?</p> <p>24 A. Counterfeit sneakers -- some secondary 25 sources I think of are eBay being the first, you</p>
<p style="text-align: right;">Page 91</p> <p>1 counterfeit sneaker market.</p> <p>2 Q. We've been talking generally that 3 sneakerheads are aware that counterfeits exist.</p> <p>4 Do you or do sneakerheads perceive 5 that counterfeits are more common when purchased from 6 certain sources rather than others?</p> <p>7 A. Can you clarify the sources?</p> <p>8 Q. Let's go through a few examples. You've 9 purchased shoes from Nike.com?</p> <p>10 A. Yes, I have purchased shoes from Nike.</p> <p>11 Q. Would you expect counterfeits to be sold on 12 Nike.com?</p> <p>13 A. No, I would not.</p> <p>14 Q. Are you aware of any counterfeits ever 15 having been sold from Nike.com?</p> <p>16 A. No, I have not.</p> <p>17 Q. I assume that's also true if you bought 18 shoes directly from ASICS or Adidas or another shoe 19 manufacturer?</p> <p>20 A. I trust that I would be buying authentic 21 shoes directly from the brand, yeah.</p> <p>22 Q. Are there any other places you would buy 23 direct other than from the brand directly where you 24 would not expect some risk of counterfeits?</p> <p>25 A. Repeat the question one more time.</p>	<p style="text-align: right;">Page 93</p> <p>1 know, secondary source that comes to mind, yeah.</p> <p>2 Q. Do you have an opinion as to whether 3 counterfeits are more common on eBay than on 4 StockX?</p> <p>5 A. I certainly do have an opinion on that. I 6 believe that there's more counterfeit fake sneakers 7 on eBay than there are on StockX.</p> <p>8 Q. What's your basis for that opinion?</p> <p>9 A. One, my personal experience with getting 10 counterfeit sneakers on eBay. But with StockX 11 because of their verification program, I believe that 12 at least they are looking at all those products. But 13 I would be remiss to also say that now eBay does 14 also have a verification program, as well.</p> <p>15 Q. What percentage of Nike sneakers sold on 16 StockX are counterfeit?</p> <p>17 A. I don't know how many sneakers are sold. I 18 mean, every -- every pair of sneakers, my 19 understanding, goes through their authentication 20 program.</p> <p>21 Q. What percent of Nike sneakers sold on 22 eBay are counterfeit?</p> <p>23 A. I have no idea. My expertise is really on 24 culture. But specifically looking at StockX, that 25 information wasn't shared with me.</p>

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<p style="text-align: right;">Page 102</p> <p>1 authenticity guarantee?</p> <p>2 A. Both groups are -- are aware that at any</p> <p>3 point in time, a pair of sneakers that you buy could</p> <p>4 very well be fake. The older sneakerheads are just</p> <p>5 that. They are older, seasoned veterans. They know</p> <p>6 some other things to look for, kind of some telltale</p> <p>7 signs that some of the younger sneakerheads are not</p> <p>8 aware of. But both groups are always looking from</p> <p>9 the perspective that there is a possibility that they</p> <p>10 end up with a fake pair of sneakers. That could</p> <p>11 happen.</p> <p>12 Q. Are there any sneakerhead -- and the reason</p> <p>13 I ask, because you say "tend to be skeptical."</p> <p>14 Are there any sneakerheads who are not</p> <p>15 skeptical of the accuracy of an authenticity</p> <p>16 guarantee?</p> <p>17 A. There -- there are sneakerheads who may</p> <p>18 willingly or unwillingly buy a counterfeit pair of</p> <p>19 sneakers, but -- I can't speak for every thousands,</p> <p>20 millions of sneakerheads, but I know I would always</p> <p>21 be mindful in where I'm buying a particular pair of</p> <p>22 sneakers and the possibility I could end up with a</p> <p>23 fake pair of sneakers.</p> <p>24 So this is where with age comes</p> <p>25 knowledge, a/k/a wisdom, and a big part of -- the big</p>	<p style="text-align: right;">Page 104</p> <p>1 they buy, just like we all buy, could very well be a</p> <p>2 fake product.</p> <p>3 Having done a lot of research, I'm not</p> <p>4 just doing research on the sneakerhead community.</p> <p>5 I'm also researching on consumers as a whole. This</p> <p>6 is -- again, this is my world that I am involved --</p> <p>7 deeply involved with, marketing, the storytelling.</p> <p>8 Q. Who is more aware of the possibility of</p> <p>9 counterfeit sneakers, sneakerheads or</p> <p>10 non-sneakerheads?</p> <p>11 MS. BANNIGAN: Objection.</p> <p>12 A. Both groups are aware that counterfeits</p> <p>13 exist. Could I say one group is -- knows more than</p> <p>14 the next? I can't speak for everyone. I can speak</p> <p>15 for me and whether or not -- again, any time I buy</p> <p>16 something, it could be real or it could be fake.</p> <p>17 Q. (BY MR. FLUHR) Earlier you testified that</p> <p>18 it's possible at least one sneakerhead saw that</p> <p>19 authenticity guarantee and thought "There's no</p> <p>20 reasonable possibility the sneakers I purchase here</p> <p>21 are counterfeit."</p> <p>22 Is the same true for non-sneakerheads?</p> <p>23 Is it possible that at least one sneakerhead saw that</p> <p>24 authenticity guarantee and thought, "There's no</p> <p>25 reasonable possibility I'm buying a counterfeit"?</p>
<p style="text-align: right;">Page 103</p> <p>1 part of the community is sharing that knowledge and</p> <p>2 wisdom.</p> <p>3 Q. Is it possible that there is at least one</p> <p>4 sneakerhead who sees that authenticity guarantee and</p> <p>5 thinks there's no reasonable possibility that the</p> <p>6 sneaker purchase is going to be counterfeit?</p> <p>7 A. Could there be? Absolutely. I don't know</p> <p>8 what they may look like or what may be going through</p> <p>9 their mind, but there is that possibility, yes.</p> <p>10 Q. In reading through this paragraph, you're</p> <p>11 talking about what sneakerheads think. "Older</p> <p>12 sneakerheads tend to be skeptical of the accuracy of</p> <p>13 an authenticity guarantee. Younger sneakerheads also</p> <p>14 often understand the authenticity guarantees can't be</p> <p>15 100 percent effective."</p> <p>16 Are you offering any opinion as to</p> <p>17 what non-sneakerheads perceive with respect to that</p> <p>18 authenticity guarantee?</p> <p>19 A. I am also speaking to the non-sneakerhead</p> <p>20 consumer, as well, because if someone goes to -- when</p> <p>21 someone does go to the website and reads that and</p> <p>22 interprets or reads the word "100 percent authentic,"</p> <p>23 they think real. It's a hundred percent authentic</p> <p>24 means real to them. So they are reading that, but</p> <p>25 they also have to be mindful that any product that</p>	<p style="text-align: right;">Page 105</p> <p>1 A. That's, again, another very broad</p> <p>2 paintbrush to paint with. I think as human beings</p> <p>3 and human nature, we look at things and have to</p> <p>4 always look at things as if -- if it's too good to be</p> <p>5 true, it probably is fake, especially when it comes</p> <p>6 to tangible products. But I couldn't give you a</p> <p>7 strong, definitive answer on that.</p> <p>8 Q. You can't tell whether at least it's</p> <p>9 possible that at least one person --</p> <p>10 A. It is possible. I'm not saying -- I'm not</p> <p>11 saying not, that it's not. But again, there's --</p> <p>12 there's so many consumers out there that when they</p> <p>13 read those words on the website, 100 percent</p> <p>14 authentic, that can mean so many different things</p> <p>15 to -- to him or her.</p> <p>16 Q. Have you talked to any StockX customers</p> <p>17 about their perception of that language?</p> <p>18 A. I have spoken to StockX customers because</p> <p>19 of, again, the -- the message boards, the websites</p> <p>20 that I'm part of. People are very quick to share</p> <p>21 their opinion, and I think about -- especially in</p> <p>22 this day and age where the -- the lines between</p> <p>23 what's real and fake have become harder and harder,</p> <p>24 we in the sneaker community are always posting</p> <p>25 articles and showing pictures -- I think certainly</p>

27 (Pages 102 - 105)

<p style="text-align: right;">Page 106</p> <p>1 even talk to people who confide or trust me to say, 2 you know, "I may have ended up with a fake pair of 3 sneakers. I'm not sure." And again, that's -- 4 that's part of the game.</p> <p>5 Q. And I just want to be clear. Some of these 6 conversations or discussions you saw with the StockX 7 customers concerned the authenticity guarantee?</p> <p>8 A. No, they weren't concerning the 9 authenticity guarantee. It was the concern that the 10 sneakers that they bought on the website had -- you 11 know, that they received, they were questioning them 12 on whether the product that they received, the 13 sneakers they received, were real or not. This is an 14 ongoing -- there are ongoing threads about this on 15 multiple platforms.</p> <p>16 Q. And these threats -- in these threads, did 17 any of these sneakerheads that you're referencing 18 ever express disappointment in the possibility that 19 they had purchased counterfeit sneakers?</p> <p>20 A. They have expressed their concerns that 21 they may have ended up with a counterfeit pair of 22 sneakers, but they were able to get that problem 23 rectified by basically reporting it to StockX and 24 saying, "These sneakers are fake." StockX had them 25 ship them back to them and they went through another</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. I had asked you something a little while 2 ago, and I think we got away from it and I'm not sure 3 I got the answer to it. I just want to make sure I 4 get the answer to it.</p> <p>5 Do you recall any specific discussion 6 about the authenticity guarantee in those 7 conversations?</p> <p>8 A. I have to ask for more clarification. So 9 conversations that I'm having with other 10 sneakerheads? Is that the question?</p> <p>11 Q. Yes.</p> <p>12 A. That the -- that the authenticity program 13 does exist in the first place or what -- I'm not sure 14 what the question is there.</p> <p>15 Q. I'm asking whether you recall any 16 discussion among those sneakerheads concerning the 17 authenticity guarantee.</p> <p>18 A. Yes, I do recall people writing and talking 19 about it, sharing information that, "Hey, if these 20 sneakers are fake, I'm going to get my money back."</p> <p>21 Q. And to be clear, I'm not referencing the 22 offer to return. I'm talking specifically about the 23 100 percent -- 100 percent language.</p> <p>24 Do you recall any discussion about 25 that language?</p>
<p style="text-align: right;">Page 107</p> <p>1 verification process, which is amazing that -- and a 2 great thing, a great service that StockX has because 3 they are willing to -- to take those sneakers back 4 and, if they are counterfeit, refund that person's 5 money.</p> <p>6 Q. Of these sneakerheads who are discussing 7 the purchase of counterfeit sneakers on StockX, did 8 any of them express surprise that sneakers purchased 9 on StockX would have been counterfeit?</p> <p>10 A. Certainly. They were surprised that the 11 sneakers that they received they believe were a fake, 12 but they did appreciate the -- the willingness on 13 StockX's part to -- to rectify the problem, to fix it 14 because, again, if you end up with a counterfeit pair 15 from another platform, you buy it, you own it. You 16 lose, whereas this is very different. This program 17 is very different and the way that they -- StockX 18 does it is very different.</p> <p>19 Q. Of these sneakerheads, did any of them 20 express disappointment in how StockX handled the 21 process of getting those counterfeit sneakers 22 returned?</p> <p>23 A. No. They responded that it was very quick 24 and easy to ship said, you know, sneakers back to 25 them -- and get their money back when they did.</p>	<p style="text-align: right;">Page 109</p> <p>1 A. I do. The language -- the conversation 2 around that language is that StockX does lay 3 eyes/hands on each product that goes through their 4 market, through their website.</p> <p>5 Q. Do you recall anything else about those 6 conversations?</p> <p>7 A. No.</p> <p>8 Q. Have you seen any surveys of StockX 9 customers concerning how they would have perceived or 10 did perceive the StockX authenticity guarantee?</p> <p>11 A. No, I haven't seen any surveys.</p> <p>12 Q. Have you seen any other type of consumer 13 research about how StockX customers perceived the 14 StockX authenticity guarantee?</p> <p>15 A. No, I haven't.</p> <p>16 Q. Can you turn to page -- Pages 5 and 6 of 17 your report?</p> <p>18 A. Can I call for a timeout to use the 19 restroom right now, a break?</p> <p>20 Q. Absolutely.</p> <p>21 THE VIDEOGRAPHER: We are going off 22 the record. The time is 1:49.</p> <p>23 (Recess from 1:49 p.m. to 2:05 p.m.)</p> <p>24 THE VIDEOGRAPHER: We are back on the 25 record. The time is 2:05.</p>

28 (Pages 106 - 109)

<p style="text-align: right;">Page 110</p> <p>1 Q. (BY MR. FLUHR) Mr. Wells, I just wanted to 2 ask you a few more questions about these message 3 boards.</p> <p>4 You were talking about messages 5 between sneakerheads concerning purchases on StockX, 6 correct?</p> <p>7 A. Yes, we were talking about sneakerheads on 8 message boards talking about purchases on StockX.</p> <p>9 Q. What time period were you looking at 10 these -- these messages, or are these just messages 11 you've seen over the years?</p> <p>12 A. These are messages that I have seen. We're 13 talking some within the past month, but certainly 14 those previously, as well, in terms of years ago.</p> <p>15 Q. And approximately how many messages are we 16 talking about? Are we talking about less than 10 17 messages?</p> <p>18 A. I would say less than 10 people talking 19 about, you know, what they have bought on StockX and 20 whether or not they ended up with -- whether or not 21 they feel it was a fake pair of sneakers or not.</p> <p>22 Q. Okay. I would like you to turn to Page 49.</p> <p>23 MS. BANNIGAN: 49, you said?</p> <p>24 MR. FLUHR: Page 49, yes.</p> <p>25 A. Okay. I'm there.</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. At a point in my career, I spent 10 years 2 working on car crash cases.</p> <p>3 A. Working on --</p> <p>4 Q. Car crashes, for no clear reason. And so, 5 I spent a lot of time with the Kelly Blue Book over 6 the years. I want to get more into this idea that 7 StockX is for the sneaker market what the Kelly Blue 8 Book is for the car market.</p> <p>9 Can you just tell me more about what 10 you mean by that?</p> <p>11 A. So -- and this goes really to the -- the 12 beginning of 110 in my report where I write "StockX 13 is also valuable for any sneakerheads because it 14 provides detailed, otherwise difficult to obtain 15 information like sales history, average sales price 16 for every model of sneaker."</p> <p>17 Just as I would or did on Kelly Blue 18 Book, I look at StockX to see the details about a 19 particular sneaker. The data that's available to us 20 as sneakerheads, we're able to pull a lot of that 21 data that wasn't available in years past prior to 22 StockX existing.</p> <p>23 Q. Do you think that sneakerheads pay more 24 attention to price than non-sneakerheads?</p> <p>25 A. Repeat the question.</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. (BY MR. FLUHR) Paragraph 110. And you're 2 talking about the -- the prices that people pay for 3 sneakers, I think, right?</p> <p>4 A. What's the question as related specifically 5 to 110? There's a lot in there.</p> <p>6 Q. Yeah, that's -- that's fair. You say, "In 7 this regard, StockX has been described to be for the 8 sneaker market what the Kelly Blue Book is for the 9 car market."</p> <p>10 What's the Kelly Blue Book?</p> <p>11 A. My understanding of the Kelly Blue Book for 12 cars is just a website -- just that, a website for 13 estimating the value of a vehicle. StockX has 14 quickly become that place for sneakerheads for us to 15 look at what a sneaker is retail priced at, as well 16 as what it is going for in the resale -- reseller's 17 market.</p> <p>18 Q. Out of curiosity, have you ever seen the 19 Kelly Blue Book?</p> <p>20 A. I have visited their website, yes.</p> <p>21 Q. On what occasion did you have to visit the 22 Kelly Blue Book website?</p> <p>23 A. I was looking to sell a vehicle, and I 24 wanted to understand the difference between a private 25 sale as well as a -- selling it to a big dealership.</p>	<p style="text-align: right;">Page 113</p> <p>1 Q. Do you think that sneakerheads -- let me 2 phrase that differently.</p> <p>3 Do you think that sneakerheads care 4 more about price than non-sneakerheads?</p> <p>5 A. I think both groups pay attention to price, 6 you know. As human beings, I believe that we're all 7 price-sensitive. Sneakerheads, though, are always 8 looking for a steal or a come-up, as it's referred 9 to, where they get a very good deal on a pair of 10 sneakers, find them inexpensively even. But we as 11 sneakerheads, we're -- we can be very fickle. Even 12 some people use the words "frugal" in wanting a good 13 deal for a top-tier, limited edition, hot, popular 14 sneaker.</p> <p>15 Q. So I know what a come-up is, but because 16 this is a deposition, I have to make sure that we 17 understand and have on the record exactly what this 18 means.</p> <p>19 So do you agree that -- is what you're 20 saying that sneakerheads tend to shop for the best 21 price?</p> <p>22 MS. BANNIGAN: Objection.</p> <p>23 A. So much -- so much of this is actually all 24 throughout, you know, my report. This does go back 25 to understanding the price points, what sneakers are</p>

<p style="text-align: right;">Page 122</p> <p>1 of general consumers about their perception of Nike 2 quality? 3 A. I'm not aware of any particular surveys 4 very specifically. But, look, I spend so much time 5 on the internet understanding or trying to understand 6 consumer behavior that I -- I read a lot. I've read 7 articles about even this perception. Articles may be 8 published in the Wall Street Journal, the Boston 9 Globe, the New York Times, GQ, Gentlemen's Quarterly 10 Magazine. So this is a conversation that is ongoing, 11 yeah.</p> <p>12 Q. Do you have an opinion about the percentage 13 of general consumers that perceive the quality of 14 Nike sneakers has decreased over the past two 15 decades?</p> <p>16 A. Restate the question, please.</p> <p>17 Q. Do you have an opinion about the percentage 18 of general consumers who perceive that the quality of 19 Nike sneakers has decreased over the past two 20 decades?</p> <p>21 A. I don't have a percentage, no.</p> <p>22 Q. I would like to talk about the StockX 23 authentication process.</p> <p>24 Do you have an understanding of what I 25 mean when I say that?</p>	<p style="text-align: right;">Page 124</p> <p>1 employees. 2 Q. What is the background of these StockX 3 employees who perform this process? 4 A. I don't know the answer to that question. 5 I don't -- I'm not privy to that info. 6 Q. Do you know what kind of training they 7 receive before doing this? 8 A. No, I don't know what kind of training they 9 receive, but I would believe that they -- they do 10 receiving training on what things to look for. But 11 specifics, I don't have, no. 12 Q. Have you any information about what it is 13 that they do look for? 14 A. I don't have details of what it is that 15 they look for; but what I do know is that someone is 16 actually looking at, holding these sneakers. 17 Q. How do you know that? 18 A. By their verification program, as well as 19 the counterfeit return policy that they have in 20 place, as well. 21 Q. Where -- where in their verification 22 program do they say that every shoe is held, 23 inspected by a person? 24 A. So -- and this is -- I actually do write 25 about this in there -- in my report. And</p>
<p style="text-align: right;">Page 123</p> <p>1 A. I do. I understand StockX's authentication 2 program. 3 Q. We can either call it their authentication 4 program or I think I see in Paragraph 107 you say 5 verification process. 6 A. Let me go to -- 7 Q. I want to make sure I want to make sure 8 we're talking about the same thing. As I said, I 9 want to use your language, even though I think we're 10 talking about the same thing. Page 48, 107, you talk 11 about StockX's verification process. 12 What is StockX's verification process? 13 A. StockX has the verification or the program 14 in place where someone, a human being, lays eyes and 15 hands on every product that goes through their -- 16 their marketplace. Specific to the sneakers, that -- 17 that makes me and sneakerheads -- it makes us feel 18 good that there's someone who actually is doing just 19 that, holding the sneakers, looking at the box, 20 tissue paper, size tag, all those things to help 21 reduce the risk of counterfeits getting -- you know, 22 I end up with a counterfeit pair of sneakers. 23 Q. And are these StockX employees who are 24 performing this verification? 25 A. My understanding is, yes, they are StockX</p>	<p style="text-align: right;">Page 125</p> <p>1 particularly the -- in 107, this last sentence here, 2 it says, "Beyond StockX's verification process, 3 sneakerheads can also rely on StockX's buyer promise 4 through which purchasers on the StockX marketplace 5 can submit a support request and request a second 6 look at purchased products a buyer believes to be 7 inauthentic and get a refund if StockX makes a 8 mistake in the verification process." 9 And then footnoted, Number 176 talks 10 about that StockX buyer program on Page 48. So 11 that's their program that they have in place. That's 12 what they attest to. That's what they share. That's 13 what we read. That's what I read. 14 Q. Are you aware of any StockX customers ever 15 complaining about difficulty returning a counterfeit 16 shoe? 17 A. No, I'm not. 18 Q. Have you asked StockX to see any such 19 communications? 20 A. No, I have not. 21 Q. And you haven't seen any such 22 communications? 23 A. I have not. 24 Q. So I understand that if a shoe is 25 discovered to be counterfeit and agreed to be</p>

32 (Pages 122 - 125)

1 given by Mr. Dee Wells. The time now is 303. Thank
 2 you.
 3 (Whereupon the deposition was adjourned.)
 4 (Signature not requested.)
 5
 6

7 DEJONGH WELLS
 8
 9 Subscribed and sworn to before me
 10
 11 this __ day of _____, 2023.

12 Notary public
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Page 136

1 signature is to be before any notary public and returned
 2 within 30 days (or _____ days, per agreement of counsel)
 3 from date of receipt of the transcript. If returned, the
 4 attached Changes and Signature page contains any changes
 5 and the reasons therefor;
 6 x was not requested by the deponent or a
 7 party before the completion of the deposition;
 8 I further certify that I am neither counsel for,
 9 related to, nor employed by any parties or attorneys
 10 in the action in which this testimony is taken, and
 11 further that I am not financially or otherwise interested
 12 in the outcome of this action.

13 Certified to by me on this the 1st day
 14 of September, 2023.

15
 16 Shauna Foreman
 17 Shauna Foreman, CSR
 18 Texas CSR 3786
 19 Expiration: 10/31/2025
 20
 21
 22
 23
 24
 25

1 Page 135
 2 IN THE UNITED STATES DISTRICT COURT
 3 FOR THE SOUTHERN DISTRICT OF NEW YORK

4 NIKE, INC.)
 5 vs.) CASE NO. 1:22-cv-00983-VEC
 6 STOCKX, LLC)
 7

8 REPORTER'S CERTIFICATE
 9 ORAL VIDEOTAPED DEPOSITION OF DEJONGH WELLS
 10 August 30, 2023

11 I, Shauna Foreman, Certified Shorthand Reporter
 12 in and for the State of Texas, hereby certify to the
 13 following:

14 That the witness, DeJongh Wells, was duly sworn
 15 by the officer and that the transcript of the oral
 16 deposition is a true record of the testimony given by
 17 the witness;

18 That the original deposition was delivered
 19 to Michael Fluhr.

20 That a copy of this certificate was served on
 21 all parties and/or the witness shown herein on
 22 _____.

23 I further certify that pursuant to FRCP Rule
 24 30(f)(1), the signature of the deponent:
 25 _____ was requested by the deponent or a party
 before the completion of the deposition and that the

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1 ERRATA SHEET
 2 VERITEXT/NEW YORK REPORTING, LLC
 3 CASE NAME: Nike, Inc. v. Stockx, LLC
 4 DATE OF DEPOSITION: 8/30/2023
 5 WITNESSES' NAME: DeJongh Wells
 6 PAGE LINE (S) CHANGE REASON
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____

22 DeJongh Wells
 23 SUBSCRIBED AND SWORN TO BEFORE ME
 24 THIS ____ DAY OF _____, 20____.
 25 (NOTARY PUBLIC) MY COMMISSION EXPIRES: